

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 05.10.2000

O.A. No. 337/1996

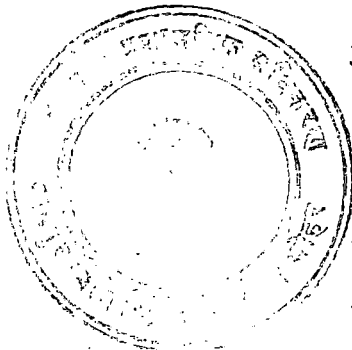
Khamisha Ram S/O Shri Sumar Ram, R/O Kaprau, Tehsil-Chohtan,
District Barmer. Ex-Postal Assistant, Chohtan, District
Barmer.

... Applicant

Vs

1. Union of India through the Secretary, Ministry of Communication, Department of Post, Government of India, Dak Bhawan, New Delhi.
2. Member (Personnel), Postal Services Board, Ministry of Communication, Department of post, Dak Bhawan, New Delhi.
3. Superintendent, Post offices, Barmer Division, Barmer.

... Respondents



Mr. K.S. Chouhan, Counsel for the Applicant.

Mr. Vineet Mathur, Counsel for the Respondents.

CGRAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

O_R_D_E_R

(PER HON'BLE MR. GOPAL SINGH)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant Khamisha Ram, has prayed for quashing the impugned order dated 07.9.1995 (Annexure A/1) and order dated 26.8.'88 (Annexure A/11) and for a direction to the respondents to reinstate the applicant with all consequential benefits.

Cuppal Singh

Contd..2

2. Applicant's case is that while he was working as Postal Assistant with the respondent-department, the penalty of removal from service was imposed upon him vide order dated 26.8.1988. The applicant did not file an appeal because of his ignorance of rules. However, he filed a Revision Petition but the same was rejected on the grounds of delay. Review Petition submitted by the applicant was rejected by the Member (personnel) on 11.10.'89. This order dated 11.10.89 was challenged before this Tribunal vide O.A. No. 314/1991 which was decided on 14.7.1994 directing Member (P) to give personal hearing to the applicant and to pass a speaking order. After giving personal hearing to the applicant, Member (P) rejected the Review Petition by a speaking order dated 7.9.'95 (Annexure A/1). Feeling aggrieved, the applicant has approached this Tribunal again.

3. Notices were issued to the respondents and they have contested the application on the grounds of res judicata as also on merit.

4. We have heard the learned Counsel for the parties, and perused the records of the case carefully.

5. The applicant was served with a chargesheet dated 6.10.'86 on the following charges :

"That while functioning as Treasurer, Barmer HPO during the period from 27.6.'83 to 23.6.'84, Shri Khamisa Ram misappropriated Government money amounting to Rs.15000/- to 19000/- from 2.6.'84 and 23.6.84 and kept the amount with him for his personal use, thereby violating the provisions of rule 216 of P&T Man. Vol.V and Rule 3(1)(i) and (ii) of CCS (Conduct) Rules, 1964

That during the above period, while functioning in above said capacity, he manipulated and falsified official records with malafide intention and thereby violated the provisions of Rule 3(1)(i)&(ii) of CCS (Conduct) Rules, 1964 and Rule 31(a) & 32 of FHB Vol. II.

That during the above period, Sh. Khamisa Ram failed to fill up HO Summary of Barmer HO on 23.6.'84, violating the provisions of Rule 47 of P&T Man. FHB Vol. II and Rule 3(1)(i)(ii) of CCS (Conduct) Rules, 1964."

On conclusion of the departmental enquiry, the penalty of

Lopala S

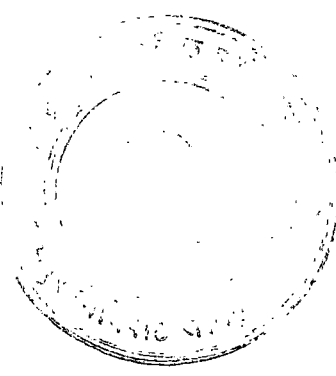
dismissal from service was imposed upon the applicant by the Disciplinary Authority vide his order dated 26.8.'88 at Annexure A/11. The applicant did not submit any appeal against the orders of the Disciplinary Authority. However, he submitted Review Petition, which was rejected on 11.10.1989.

6. The applicant had earlier challenged the order dated 11.10.'89 rejecting the Revision Petition of the applicant and this Tribunal in its order dated 14.7.'94 in O.A.No.314/91 directed Member (P) Postal Service Board to give a personal hearing to the applicant and pass a speaking order on the Review Petition. The said Revision Petition has been dismissed vide order dated 7.9.'95 (Annexure A/1). The applicant now while challenging the order dated 07.9.'95 has also challenged the order dated 26.8.'88 (Annexure A/11) of the Disciplinary Authority imposing penalty on the applicant.

7. It is seen from the chargesheet that the applicant was charged with misconduct of embezzlement of Government money amounting to Rs.15000/- to Rs.19000/-. This misconduct in our opinion is a grave misconduct and reflects adversely upon the integrity of the applicant. The Disciplinary Authority has given full justification for imposing the penalty of dismissal from service upon the applicant. Even the reviewing authority in its order dated 7.9.'95 has observed as under :

"In view of above, it is quite evident, that petitioner, has put-forth his arguments, basically related with the procedural aspect of inquiry. He tried to find out the lacuna in the inquiry. It is seen that charges were held as proved after taking into consideration all the aspects of the case. The petitioner was given adequate opportunity to refute the charges which he could not do. There is no glaring procedural lacuna, which has resulted in miscarriage of justice to the petitioner. There is no point of merit, which justified mitigation of penalty and, therefore, there is no scope to intercede on behalf of the petitioner."

Copy of



The applicant, for the best reasons known to him, did not challenge the findings of the Disciplinary Authority by filing an appeal. If an appeal was to be filed, the Appellate Authority would have definitely re-considered those findings on the basis of the evidence on record. The jurisdiction of the reviewing authority is very limited as to the irregularity or injustice in awarding the quantum of punishment. However, the reviewing authority has looked into entire case and ultimately dismissed the Review petition. The applicant has not brought to our notice any procedural irregularity or illegality for interference in the impugned orders.

8. In the light of above discussion, we do not find any merit in this application and the same deserves to be dismissed.

9. The Original Application is accordingly dismissed with no order as to costs.



Gopal Singh

(GOPAL SINGH)
Adm. Member

B.S. Raikote

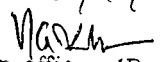
(B.S. RAIKOTE)
Vice Chairman

J

कॉपी योफा डोर
कॉपी योफा डोर
6/11/2060

Copy Recd
K.S. Gille
16.10
for V.K. Mathur

Part II and III destroyed
in my presence on 16.10.60
under the supervision of
section officer () as per
order dated 6/11/60


Section officer (Records)